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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,553	05/15/2000	ANDREAS KYNAST	10191/1378	2755
26646	7590	08/14/2007	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			TORRES, MARCOS L	
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
08/14/2007		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/554,553
Filing Date: May 15, 2000
Appellant(s): KYNAST ET AL.

MAILED

AUG 14 2007

Technology Center 2600

Gerard A. Messina
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4-17-07 appealing from the Office action
mailed 9-19-2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,949,492	Mankovitz	9-1999
5,872,926	Levac et al.	2-1999

5,699,255 Ellis et al.

12-1997

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 8-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz (U.S. Patent US005949492A) in view of Levac (U.S. Patent US005872926A).

As to claim 8, Mankovitz discloses a method for transmitting information between an infrastructure and data users, the infrastructure including a service provider, the data users including terminal devices in a motor vehicle, the terminal devices having specific different data processing capabilities (see col. 7, lines 35-46; col. 15, lines 9-14), the method comprising the steps of: making a single data service available in a standardized format, using the infrastructure; and via interfaces situated in the infrastructure, adapting data from the single data service in the standardized format to the data processing capabilities of the terminal devices (see col. 11, lines 1-12; col. 9, lines 36-46). Mankovitz do not specifically discloses adapting data to users that have different data processing capabilities. In an analogous art, Levac discloses adapting data to users that have different data processing capabilities (see col. 1, line 61 - col. 2, line 2), thereby reaching various type of user equipment. Also, Levac disclose wherein the different data processing capabilities of the terminal devices are identified based on a terminal device identifier parameter transmitted by a respective terminal device to the service provider (see col. 2, lines 3-21). Since, it is desirable to reach as many users as possible. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add the Levac teaching to the Mankovitz terminal for the simple reason of compatibility and increased revenue with new users.

As to claim 9, Mankovitz discloses everything claimed as explained above in addition the terminal device, further comprising means for exchanging data with the infrastructure via a telephone network (see col. 9, lines 57-61). Mankovitz do not specifically disclose that the telephone network is a digital mobile network. However, OFFICIAL NOTICE IS TAKEN that the use of digital transmission in telephone network is a common and well-known technique. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use the Makovitz and Levac teachings for the simple reason of using the bandwidth more efficiently.

As to claim 10, Mankovitz discloses method further comprising the steps of: transmitting request data from the data users to the infrastructure; and selecting the data service and at least one of the interfaces as a function of the request data (see col. 7, lines 35-46; col. 11, lines 1-12; col. 9, lines 36-46).

As to claims 11, 16 and 18, Mankovitz discloses a terminal device for a reception of data from an infrastructure, the terminal device having specific data processing capabilities for processing the data (see col. 7, lines 35-46), the infrastructure making a data service available in a format, the infrastructure including interfaces via which the data in the format is adapted to the data processing capabilities of the terminal device (see col. 11, lines 1-12; col. 9, lines 36-46), the terminal device comprising: means for transmitting a request signal to the infrastructure via which data is requested from the infrastructure and with which information concerning the data processing capabilities is transmitted via the terminal device to the infrastructure (see col. 8, lines 25-31).

Mankovitz do not specifically discloses adapting data to users that have different data

processing capabilities. In an analogous art, Levac discloses adapting data to users that have different data processing capabilities (see col. 1, line 61 - col. 2, line 2), thereby reaching various type of user equipment. Also, Levac disclose wherein the different data processing capabilities of the terminal devices are identified based on a terminal device identifier parameter transmitted by a respective terminal device to the service provider (see col. 2, lines 3-21). Since, it is desirable to reach as many users as possible. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add the Levac teaching to the Mankovitz terminal for the simple reason of compatibility and increased revenue with new users.

As to claim 12, the limitations of the claim are rejected as the same reasons as set forth in claim 9.

As to claim 13, Mankovitz discloses everything claimed as explained above in addition the terminal device, wherein the terminal device is a car radio with supplementary functions (see col. 45, lines 3-10).

As to claim 14, Mankovitz discloses everything claimed as explained above in addition the terminal device, wherein the information concerning the data processing capabilities of the terminal device includes a terminal device identifier (see col. 3, lines 4-30).

As to claim 17, Mankovitz discloses a method for transmitting information between an infrastructure and data users, the infrastructure including a service provider having a data service configured independently of the processing capabilities of the data users, the data users including terminal devices in a motor vehicle, the terminal

devices having specific different data processing capabilities (see col. 7, lines 35-46; col. 15, lines 9-14), the method comprising the steps of: making a data service available in a standardized format, using the infrastructure; via interfaces situated in the infrastructure, adapting data from the data service in the standardized format to the different data processing capabilities of the terminal devices; and transmitting the adapted data to a terminal device (see col. 11, lines 1-12; col. 9, lines 36-46). Mankovitz do not specifically discloses adapting data to users that have different data processing capabilities. In an analogous art, Levac discloses adapting data to users that have different data processing capabilities (see col. 1, line 61 - col. 2, line 2), thereby reaching various type of user equipment. Also, Levac disclose wherein the different data processing capabilities of the terminal devices are identified based on a terminal device identifier parameter transmitted by a respective terminal device to the service provider (see col. 2, lines 3-21). Since, it is desirable to reach as many users as possible. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add the Levac teaching to the Mankovitz terminal for the simple reason of compatibility and increased revenue with new users.

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mankovitz in view of Levac and further in view of Ellis (U.S. Patent 5,699,255).

As to claim 15, Mankovitz discloses a method for transmitting information between an infrastructure and data users, the infrastructure including a service provider, the data users including terminal devices in a motor vehicle, the data users having specific data processing capabilities, the method comprising the steps of: making a data

service available in a standardized format, using the infrastructure; and via interfaces situated in the infrastructure (see col. 7, lines 35-46; col. 8, lines 25-31; col. 11, lines 1-12; col. 9, lines 36-46). Mankovitz does not specifically disclose adapting data to the data processing capabilities of the data users or wherein the data includes geographic information. In an analogous art, Levac discloses adapting data to the data processing capabilities of the data users (see col. 1, line 61 - col. 2, line 2), thereby enhancing compatibility and user satisfaction. Also, Levac disclose wherein the different data processing capabilities of the terminal devices are identified based on a terminal device identifier parameter transmitted by a respective terminal device to the service provider (see col. 2, lines 3-21). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to add the Levac teachings to the Makovitz method for the simple purpose of reaching as many users as possible.

Mankovitz and Levac do not specifically disclose wherein the data includes geographic information. In an analogous art, Ellis discloses wherein the data includes geographic information (see col. 2, lines 5-25), thereby allowing sending geographic data to user and provide user location services. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings in order to make user friendly by providing geographic information, i.e., map information, to a user.

(10) Response to Argument

Regarding appellant argument that Mankovitz and Levac do not disclose a method or device for transmitting the information between an infrastructure and data

user, in which different data processing capabilities of the data devices of the data users are identified based on at least one of a terminal device identifier and a terminal device code transmitted by a respective terminal device to the service provider; the combination of Mankovitz and Levac does disclose the above mentioned limitation, for example in col. 1, line 61 - col. 2, line 21 Levac discloses a method wherein a mobile device (data user) send a message with a identifier or code which takes in account a device different data processing capabilities.

Regarding appellant argument that in Levac the message server receives all information about the destination from the message source, not from the destination; this is correct the message server receives all information about the destination from the message source or the one that requesting the service to send data. However, the claims of the present application as Levac do not require that the one requesting to send the message or service have to be the one receiving it. As appellant disclosed in the summary of the claimed subject matter, there are a plurality of data users and the claim is not limited to only one device; for example data user 1 could be requesting a message or service to data user 2. Is reminded that the broadest reasonable interpretation in view of the specification is given to the claim. Thereby, the claim is not limited to the narrow interpretation of just a single device doing everything. Moreover, Mankovitz also discloses the situation when the requestor and receiver are the same (see col. 7, lines 35-46).

Also appellant alleges that Levac message parameter does not include information about the “different data processing “capabilities of the destination device;

please see in Levac col. 1, line 61 - col. 2, line 2 which is further explained in col. 7, lines 9-21, which he disclose that message is going to be converted according the data processing capabilities of the device in response to the message parameter. Examples of those parameters are shown in col. 4, lines 25-40.

As to appellant argument that the Levac approach as wholly different from the presently claimed subject matter, which provides that the destination send an identifier when requesting a message from the provider; it is noted that the word destination is not even in the claim, as previously stated in the above paragraph the claims does not require that the requestor and destination be the same.

Regarding appellant arguments directed to claim 15 fall together for the same reasons as shown in the above paragraphs.

As to the argument regarding the motivation to combine, all reference are directed to users requesting services from a infrastructure, thereby they are analogous and properly combinable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marcos Torres/

Marcos Torres

Patent Examiner

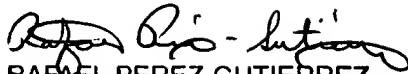
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8/7/07